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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ARMANDO RIVERAS-GOMEZ,
aka JOAQUIN GOMEZ,
aka VICTOR CONCEPCION-ORTIZ,

Defendant.

Case No. 2:20-mj-00114-DJA

**Stipulation to Extend Deadlines to
Conduct Preliminary Hearing and
File Indictment (First Request)**

IT IS HEREBY STIPULATED AND AGREED, by and between Nicholas A. Trutanich, United States Attorney, and Kimberly M. Frayn, Assistant United States Attorney, counsel for the United States of America, and Nisha Brooks-Whittington, Assistant Federal Public Defender, counsel for Defendant ARMANDO RIVEROS-GOMEZ, aka Joaquin Gomez, aka Victor Concepcion-Ortiz, that the Court schedule the preliminary hearing in this case for no earlier than 45 days from today's date. This request requires that the Court extend two deadlines: (1) that a preliminary hearing be conducted within 14 days of a detained defendant's initial appearance, *see* Fed. R. Crim. P. 5.1(c); and (2) that an information or indictment be filed within 30 days of a defendant's arrest, *see* 18 U.S.C. § 3161(b).

1 This stipulation is entered into for the following reasons:

2 1. The United States Attorney's Office has developed an early disposition
3 program for immigration cases, authorized by the Attorney General pursuant to the
4 PROTECT ACT of 2003, Pub. L. 108-21.

5 2. The early disposition program for immigration cases is designed to: (1) reduce
6 the number of hearings required in order to dispose of a criminal case; (2) avoid having
7 more cases added to the court's trial calendar, while still discharging the government's duty
8 to prosecute federal crimes; (3) reduce the amount of time between complaint and
9 sentencing; and (4) avoid adding significant time to the grand jury calendar to seek
10 indictments in immigration cases, which in turn reduces court costs.

11 3. The government has made a plea offer in this case that requires defendant to
12 waive specific rights and hearings in exchange for "fast-track" downward departure under
13 USSG § 5K3.1. This offer will be withdrawn if it is not timely accepted before this matter is
14 indicted and before a preliminary hearing is held.

15 4. Under Federal Rule of Criminal Procedure 5.1(c), the Court "must hold the
16 preliminary hearing within a reasonable time, but no later than 14 days after the initial
17 appearance if the defendant is in custody"

18 5. However, under Rule 5.1(d), "[w]ith the defendant's consent and upon a
19 showing of good cause—taking into account the public interest in the prompt disposition of
20 criminal cases—a magistrate judge may extend the time limits in Rule 5.1(c) one or more
21 times"

22 6. Furthermore, under the Speedy Trial Act, 18 U.S.C. § 3161(b), "[a]ny
23 information or indictment charging an individual with the commission of an offense shall
24

1 be filed within thirty days from the date on which such individual was arrested or served
2 with a summons in connection with such charges.”

3 7. Defendant needs additional time to review the discovery and investigate
4 potential defenses to make an informed decision as to how to proceed, including whether to
5 accept the fast-track plea agreement.

6 8. Accordingly, the parties jointly request that the Court schedule the
7 preliminary hearing in this case no sooner than 45 days from today’s date.

8 9. Defendant is in custody and agrees to the extension of the 14-day deadline
9 imposed by Rule 5(c) and waives any right to remedies under Rule 5(c) or 18 U.S.C.
10 § 3161(b), provided that the information or indictment is filed on or before the date ordered
11 pursuant to this stipulation.

12 10. The parties agree to the extension of that deadline.

13 11. This extension supports the public interest in the prompt disposition of
14 criminal cases by permitting defendant to consider entering into a plea agreement under the
15 United States Attorney’s Office’s fast-track program for § 1326 defendants.

16 12. Accordingly, the additional time requested by this stipulation is allowed
17 under Federal Rule of Criminal Procedure 5.1(d).

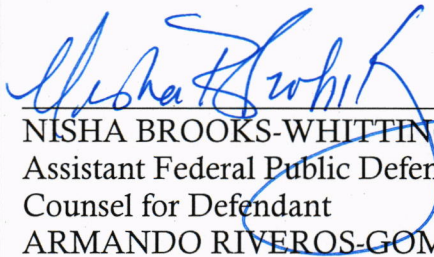
18 13. In addition, the parties stipulate and agree that the time between today and
19 the scheduled preliminary hearing is excludable in computing the time within which the
20 defendant must be indicted and the trial herein must commence pursuant to the Speedy
21 Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), considering the factors under 18 U.S.C.
22 § 3161(h)(7)(B)(i) and (iv).

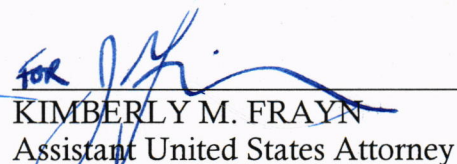
14. This is the first request for an extension of the deadlines by which to conduct the preliminary hearing and to file an indictment.

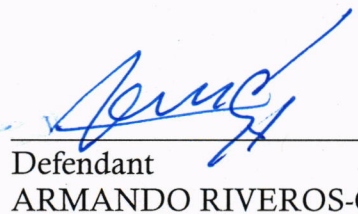
DATED this 13th day of February, 2020.

Respectfully submitted,

NICHOLAS A. TRUTANICH
United States Attorney


NISHA BROOKS-WHITTINGTON
Assistant Federal Public Defender
Counsel for Defendant
ARMANDO RIVEROS-GOMEZ


KIMBERLY M. FRAYN
Assistant United States Attorney


Defendant
ARMANDO RIVEROS-GOMEZ

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 ARMANDO RIVERAS-GOMEZ,
7 aka JOAQUIN GOMEZ,
8 aka VICTOR CONCEPCION-ORTIZ,

9 Defendant.

Case No. 2:20-mj-00114-DJA

**Order on Stipulation to
Continue Preliminary Hearing and
Deadline to Indict Defendant**

10 Based on the stipulation of counsel, good cause appearing, and the best interest of
11 justice being served; the time requested by this stipulation being excludable in computing
12 the time within which the defendant must be indicted and the trial herein must commence
13 pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), and Federal Rule of
14 Criminal Procedure 5.1, considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv):

15 IT IS THEREFORE ORDERED that the preliminary hearing currently scheduled
16 on February 27, 2020 at the hour of 4:00 p.m., be vacated and continued to April 3, 2020 at the
17 hour of 4:00 p.m..

18 DATED this 20th day of February, 2020.

19 

20 HONORABLE DANIEL J. ALBREGTS
21 UNITED STATES MAGISTRATE JUDGE
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